

REMARKS

As a preliminary matter, Applicant maintains and incorporates by reference herein those arguments previously advanced in Response B, filed May 5, 2005. Applicant respectfully requests that the Examiner reconsider those arguments and withdraw the outstanding Section 102 rejection. Additionally, although Applicant does not agree that the Examiner's rejection is proper, or that claims 27-31 read upon the Song reference (U.S. 6,710,837), Applicant has amended independent claim 27 in order to expedite prosecution. Applicant therefore respectfully requests that the Examiner consider the following arguments that are in response to the Advisory Action, and are also in light of the amendments made herein.

There are several erroneous assertions in the outstanding Advisory Action that need to be addressed. First, the Examiner incorrectly asserts that Applicant has not claimed the second orientation control element of the present invention as a plurality of separate, distinct elements. In fact, by definition, "plural orientation control elements" must be formed of separate and distinct elements to constitute a plurality. Otherwise, the word "plurality" is rendered meaningless. Furthermore, "separate" individual elements do not require that the individual elements be physically *separated*. The individual ones of the recited plurality need only be separately identifiable as individual ones of the plurality, as clearly represented in Figs. 19A and 20A of the present Application. Accordingly, the Examiner should

withdraw his assertions to the contrary, and withdraw the Section 102 rejection for at least these reasons.

Second, the Examiner's assertions that Figs. 19B and 20B show a "single, continuous structure without a break" is also erroneous. Fig. 19B is a sectional view of Fig. 19A, and Fig. 20B is a sectional view of Fig. 20A. The accompanying descriptions in the present Specification of all four drawings unambiguously describe the individual plurality of shapes (triangular in the preferred embodiment) that together comprise the single auxiliary bank 43. Nowhere in the description of Figs. 19B and 20B is the Examiner's assertion of a "single, continuous shape," supported. Figs. 19B and 20B are sectional views that illustrate the auxiliary bank 43 can be located on either substrate in relation to the pixel electrode 15. The individual elements of the plurality 43 are shown in the plane views to physically touch, so the individual shapes will not be clearly seen from the sectional views cited by the Examiner.

The present Specification clearly describes how the plane view, shown in Figs. 19A and 20A, clearly illustrates these claim features, namely, how the second orientation control element (auxiliary bank 43) is comprised of plural orientation control elements. Such features cannot be clearly seen in Figs. 19B and 20B, however, Figs. 19B and 20B are described in the Specification to represent the exact same configuration shown in Figs. 19A and 20A respectively, and not a different shape or configuration to the same elements, as asserted by the Examiner in the Advisory Action. It is inappropriate for the Examiner to

interpret drawings in the present Application in a manner that completely contradicts their unambiguous descriptions in the Specification. Accordingly, the Examiner should withdraw the erroneous remarks relating to Figs. 19B and 20B, and therefore the outstanding Section 102 rejection for at least these additional reasons as well.

Additionally, Applicant wishes to point out that the Examiner's own Election/Restriction Requirement, mailed July 30, 2003 in parent Application 10/047,216, specifically held that claims 27-31 (drawn to the sixth embodiment of the present invention) were patentably distinct from claims 17-21 (drawn to the fifth embodiment of the present invention). In other words, by making the Restriction Requirement final, the Examiner has already held that independent claim 17 is patentably distinct from independent claim 27 of the present Application. For reference, Figs. 18A-18B correspond to the fifth embodiment of the present invention, and therefore claim 17, and show – in the plane view – a continuous shape for the bank 42.

As discussed above though, the drawings that correspond to the sixth embodiment (best seen in Figs. 19A, 20A) do not show the continuous shape of the fifth embodiment (Fig. 18A). It is thus inappropriate for the Examiner to restrict the claims of the fifth and sixth embodiments of the present invention as distinct inventions but only after the claims are split into divisional Applications, assert in effect that there is no difference between the claims of the divisional Applications (17 and 27). The Examiner should be

bound by his original, final determination, which has required Applicant to incur significant additional costs to prosecute separate Applications.

Therefore, the Examiner's own earlier Restriction has effectively read these features of the Specification (the configuration shown in Figs. 19A, 20A) into the claims. The Examiner cannot now assert, in effect, that the claims of the present Application (27-31) read upon the recited configuration of the claims (17-21) of the related, divisional Application, without first withdrawing the original Restriction Requirement. Because the Examiner has not withdrawn the Restriction Requirement, he should be bound by his original determination the claims of the separate embodiments are patentably distinct, and interpret all of the language of the claims accordingly. In other words, the Examiner must stick to his original determination that claim 27 recites a plural element structure that is patentably distinct from the continuous structure featured by claim 17.

Third, the Examiner's assertions regarding the Song reference are also erroneous. The Examiner asserts in the Advisory Action that Song teaches that the protrusion 170 has "plural orientation control elements (4 ea.) connected together." Song, however, teaches nothing of the sort. The text portion cited by the Examiner from Song (col. 11, lines 3-6) teaches only that four *domains*, and not orientation control elements, are "obtained by the apertures 250 and *the* protrusion pattern 170." (Emphasis added). The Examiner has clearly misread the reference. The four described domains relate only to the directional orientation of the liquid crystal molecules that are affected by the shapes of the

apertures 250 and the protrusion pattern 170, and are not physical portions of the single pattern itself. Furthermore, it must be emphasized again that Song even refers to only a singular one of “the protrusion pattern 170,” and never to plural elements that form “the” singular protrusion pattern. Because this portion of the Song reference is the only support cited by the Examiner for the assertion that the single protrusion pattern 170 is made up of plural elements, the Examiner should withdraw these assertions as well. They are simply not supported by the prior art reference.

Lastly, while Applicant submits that no amendment to the claims should be necessary in light of all of the erroneous assertions discussed above, Applicant has nevertheless amended independent claim 27 for the purpose of expediting prosecution only. Specifically, independent claims 27 now further recites that the directivity of the plural orientation control elements is in the same direction in a direction of the plane surface of the substrate. Therefore, according to this amended claim language, even if the Examiner’s assertions were correct that Song shows plural elements of its singular protrusion pattern 170 (which, Applicant has sufficiently demonstrated above to be incorrect), Song could still not read upon the present invention by any reasonable interpretation. The pattern 170 from Song is shown to extend in many different directions in the direction of the substrate plane, and not the same direction, as now more clearly recited in claim 27. Accordingly, because no portion of Song’s protrusion pattern 170 could read upon all of the features of claim 27 of the present

invention, the outstanding Section 102 rejection is further traversed, and again should be withdrawn.

For all of the foregoing reasons, Applicant submits that this Application, including claims 27-31, is in condition for allowance. The Examiner is invited to contact the undersigned attorney if a further interview would expedite prosecution.

Respectfully submitted,

GREER, BURNS & GRAIN, LTD.

By



Josh C. Snider

Registration No. 47,954

Customer No. 24978

June 14, 2005

300 South Wacker Drive

Suite 2500

Chicago, Illinois 60606

Telephone: (312) 360-0080

Facsimile: (312) 360-9315

P:\DOCS\1117\68339\972729.DOC